

REMARKS

Applicants have studied the Office Action dated November 28, 2003 and have made amendments to the claims. It is submitted that the application, as amended, is in condition for allowance. By virtue of this amendment, claims 1-38 are pending. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

In the Office Action, the Examiner:

- Rejected claims 1-38 under 35 U.S.C. §103(a) as being unpatentable over Mathis (US 6,269,254) in view of Bar et al. (US 6,122,665).

Overview of Current Invention

The present invention solves the problem in caller center applications such as directory assistance systems (DAS) networks where telephony functions must be coordinated with agent (e.g. a directory assistance operator or help center operator) availability functions. Unlike the prior art solutions that use a switch and a PSTN phone to communicate information to an Automated Call Director (ACD) and telephony switches (e.g. PBX), the current invention eliminates the need of dedicated voice switching through use of a Virtual ACD which remains compatible with the H.323 protocol while allowing integration of VoIP into a directory assistance system (DAS) by using JavaPhones. The use of JavaPhones allows phone calls from a computer or telephone to IP addresses or telephones, without the limitation of sending only text, graphics, or other files. It provides voice-quality conversations over Intranets, PSTN gateways, the Internet, or a PBX. The JavaPhone supports connection from a regular phone device to the standard serial port (using ShelCad Hi-Phone device). This device enables private and natural talking on a regular phone. All the regular phone operations (*dial, hang-up, flash, etc.*) can be done from the regular phone device and are reflected in the GUI. The JavaPhone is H.323-compliant, IP-based phone. It meets industry standards, including RTP streaming, H.323 signaling, G.711, G.723, and GSM CODECs, and it even interoperates with Microsoft's® NetMeeting and H.323 PSTN GateWay. For more information on JavaPhone also called "Phone for Java" see online URL www.alphaworks.ibm.com/tech/phone4java.

BOC9-1999-0054-US1

12

09/576,166

The present invention through use of a special protocol to relay agent information to the Virtual ACD agent permits backward compatibility with H.323 signaling along with the ability to relay directory assistance operated status and provides screen-based interface to the agent for alerting and agent availability. The Call Director of the present invention integrates the Virtual ACD and a Voice Response Unit (VRU) and Virtual Automatic Call Distributor (VACD) to have a programmable interface with a common script so that the complete call process in the call center including audio and control can be executed as a single process.

In order to more particularly point out this feature of a JavaPhone integrated in an Intelligent Workstation Platform (IWSP) for a call center environment e.g. directory assistance which permits backward compatibility with H.323 signaling between the JavaPhone and the IWSP and a call director without the use of a Call Processing Gateway (CPG) and call processing switch used to route telephony, the following language has been added to the independent claims, i.e., claims 1, 28, and 34 as follows:

- Claim 1

said PlusTcp means provides TCP/IP communication support for local socket connections to said JavaPhone means, wherein the local socket connection is used for communicating both audio and call control operations between the JavaPhone means and the IWSP and a call director without the use of a Call Processing Gateway (CPG) and call processing switch used to route telephony, while maintaining compatibility with the H.323 protocol;

- Claims 28 and 34

processing Voice Over IP (VoIP) data TCP/IP communications in support of local socket connections with a PlusTcp means, wherein the local socket connection is used for communicating both audio and call control operations between a JavaPhone means and the IWSP and a call director without the use

of a Call Processing Gateway (CPG) and call processing switch used to route telephony, while maintaining compatibility with the H.323 protocol;

Support for this amendment language is found in the specification of the present invention as originally filed at pages 5-6 and 15-16 along with FIGs. 2 and 3.

(5-22) Rejection under 35 U.S.C. §103(a) under Mathis and Bar

As noted above, the Examiner rejected claims 1-38 under 35 U.S.C. §103(a) as being unpatentable over Mathis (US 6,269,254) in view of Bar et al. (US 6,122,665). Independent claims 1, 28, and 34 have been amended to distinguish over Mathis taken alone and/or in view of Bar. To begin, both Mathis and Bar are silent on "wherein the local socket connection is used for communicating both audio and call control operations between the JavaPhone means and the IWSP and a call director". The call director of the present invention of the present invention integrates of the Virtual ACD and a Voice Response Unit (VRU) and Virtual Automatic Call Distributor (VACD) to have a programmable interface with a common script so that the complete call process in the call center including audio and control can be executed as a single process. The call director eliminates the need of the use the use of a Call Processing Gateway (CPG) and call processing switch used to route telephony.

In contrast, the system as taught by Mathis is a telephony API for a wireless communication device and associated implementation which are highly suited to development of an objected orient computer programs for invoking wireless telephony functions. See Mathis at col. 9, lines 54-60. Further as shown in FIG. 8 of Mathis, the telephony resources of H/W (Pots card, Fax Card) are eliminated in the present invention by the use of plus TCP means. In fact Mathis expressly *teaches away* from "wherein the local socket connection is used for communicating both audio and call control operations between the JavaPhone means and the IWSP and a call director" and instead relies on telephony using dedicated phone lines and hardware such as POTS card. The present invention eliminates the use of dedicated phone lines to terminals.

As the Examiner correctly states on page 3 of the Office Action "*Mathis does not specifically disclose said PlusTcp means provides TCP/IP communication support for local socket connections to said JavaPhone means, wherein the local socket connection is used for communicating both audio and call control operations between the JavaPhone means and the IWSP and a call director without the use of a Call Processing Gateway (CPG), while maintaining compatibility with the H.323 protocol*" and goes on to combine Bar.² The Bar reference is directed to a system and method for analyzing data packets on a computer network for selectively recording audio and video packets, for organizing this stored information and for displaying this stored information upon request. See Bar, col. 2, lines 19 – 24. Bar is silent on an interface to a call director "wherein the local socket connection is used for communicating both audio and call control operations between the JavaPhone means and the IWSP and a call director."

Moreover, the Federal Circuit has consistently held that when a §103 rejection is based upon a modification of a reference that destroys the intent, purpose or function of the invention disclosed in the reference, such a proposed modification is not proper and the *prima facie* case of obviousness can not be properly made. See *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Here the intent, purpose and function of Mathis taken alone or in view of Bar is the use of on telephony using dedicated phone lines and hardware such as POTS card, in contrast the intent and purpose of the present invention is "used for communicating both audio and call control operations between the JavaPhone means and the IWSP and a call director." The present invention eliminates the need for POTS telephony hardware as required by Mathis. This combination, as suggested by the Examiner, destroys the intent and purpose of Mathis taken alone and/or in view of Bar. Accordingly, the present invention is distinguishable over Mathis taken alone or in view of Barr for this reason as well.

² Applicants make no comment on whether such combination is even proper.

Continuing further, when there is no suggestion or teaching in the prior art for provide targeted advertising to a consumer based on the consumer's location and profile the suggestion can not come from the Applicant's own specification. As the Federal Circuit has repeatedly warned against using the Applicant's disclosure as a blueprint to reconstruct the claimed invention out of isolated teachings of the prior art. See MPEP §2143 and Grain Processing Corp. v. American Maize-Products, 840 F.2d 902, 907, 5 USPQ2d 1788 1792 (Fed. Cir. 1988) and In re Fitch, 972 F.2d 160, 12 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). Mathis and Barr are silent on "wherein the local socket connection is used for communicating both audio and call control operations between the JavaPhone means and the IWSP and a call director."

Accordingly, the present invention distinguishes over Mathis taken alone and/or in view of Barr for at least these reasons.

Independent claims 1, 28, and 34 have been amended to distinguish over Mathis taken alone and/or in view of Johnson and/or in view of Barr. Claims 2-27, and 29-33, and 35-38 depend from independent claims 1, 28, and 34. Since dependent claims contain all the limitations of the independent claims, claims 2-27, and 29-33, and 35-38 distinguish over Mathis taken alone and/or in view of Barr as well.

CONCLUSION

The remaining cited references have been reviewed and are not believed to affect the patentability of the claims as amended.

In this Response, Applicants have amended certain claims. In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment is limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

PLEASE CALL the undersigned if that would expedite the prosecution of this application.

Respectfully submitted,

Date: March 1, 2004

By: 

Jon Gibbons, Reg. No. 37, 333
Attorney for Applicants
FLEIT, KAIN, GIBBONS,
GUTMAN, BONGINI, & BIANCO P.L.
551 N.W. 77th Street, Suite 111
Boca Raton, FL 33487
Tel (561) 989-9811
Fax (561) 989-9812

Please Direct All Future Correspondence to Customer Number **23334**